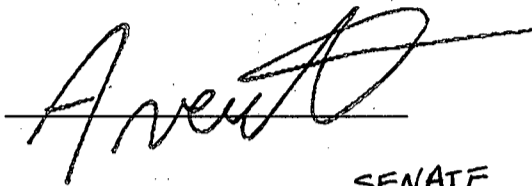


By:



S.J.R. No. 21

SENATE

VA JOINT RESOLUTION

1 proposing a constitutional amendment authorizing the legislature
2 to define rates of interest for commercial loans.

3 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Section 11, Article XVI, Texas Constitution, is
5 amended to read as follows:

6 Sec. 11. (a) The Legislature shall have authority to define
7 interest and fix maximum rates of interest; provided, however, in
8 the absence of legislation fixing maximum rates of interest all
9 contracts for a greater rate of interest than ten per centum (10%)
10 per annum shall be deemed usurious; provided, further, that in
11 contracts where no rate of interest is agreed upon, the rate shall
12 not exceed six per centum (6%) per annum.

13 (b) Notwithstanding Subsection (a), ^{of this section} the Legislature, with
14 respect to commercial loans, may create exemptions from the maximum
15 rates of interest. For purposes of this subsection, "commercial
16 loan" means a loan made primarily for business, commercial,
17 investment, agricultural, or similar purposes and not primarily for
18 personal, family, or household purposes.

19 SECTION 2. This proposed constitutional amendment shall be
20 submitted to the voters at an election to be held November 8, 2005.
21 The ballot shall be printed to permit voting for or against the
22 proposition: "The constitutional amendment allowing the ^{1/2}
23 legislature to define rates of interest for commercial loans."

3-31-05 VC
4-14-05 e93
5-9-05 ce

BILL ANALYSIS

Senate Research Center
79R4315 DWS-D

S.J.R. 21
By: Averitt
Business & Commerce
3/24/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, Texas law limits the interest rate on all loans, including commercial loans. This places banks in Texas at a competitive disadvantage in the area of commercial lending. Most states do not regulate interest rates for commercial loans among sophisticated parties. Because federal law allows banks to import interest rates from the state in which they are headquartered, banks with headquarters outside the state of Texas are not subject to our interest rate ceilings. As a result, there are few large banks headquartered in Texas.

As proposed, S.J.R. 21 allows the legislature to create exemptions to the maximum rates of interest provision in the Texas Constitution.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11, Article XVI, Texas Constitution, as follows:

Sec. 11(a) Creates this subsection from existing text relating to the legislature's authority to fix rates of interest.

(b) Authorizes the legislature, notwithstanding Subsection (a), with respect to commercial loans, to create exemptions from the maximum rates of interest. Defines "commercial loan."

SECTION 2. Requires the proposed constitutional amendment to be submitted to the voters at an election to be held on November 8, 2005. Requires the ballot to be printed to permit voting for or against the specific proposition.

1-1 By: Averitt S.J.R. No. 21
1-2 (In the Senate - Filed February 28, 2005; March 10, 2005,
1-3 read first time and referred to Committee on Business and Commerce;
1-4 March 31, 2005, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; March 31, 2005, sent to printer.)

1-6 SENATE JOINT RESOLUTION

1-7 proposing a constitutional amendment authorizing the legislature
1-8 to define rates of interest for commercial loans.

1-9 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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1-11 amended to read as follows:

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1-13 define interest and fix maximum rates of interest; provided,
1-14 however, in the absence of legislation fixing maximum rates of
1-15 interest all contracts for a greater rate of interest than ten per
1-16 centum (10%) per annum shall be deemed usurious; provided, further,
1-17 that in contracts where no rate of interest is agreed upon, the rate
1-18 shall not exceed six per centum (6%) per annum.

1-19 (b) Notwithstanding Subsection (a) of this section, the
1-20 Legislature, with respect to commercial loans, may create
1-21 exemptions from the maximum rates of interest. For purposes of this
1-22 subsection, "commercial loan" means a loan made primarily for
1-23 business, commercial, investment, agricultural, or similar
1-24 purposes and not primarily for personal, family, or household
1-25 purposes.

1-26 SECTION 2. This proposed constitutional amendment shall be
1-27 submitted to the voters at an election to be held November 8, 2005.
1-28 The ballot shall be printed to permit voting for or against the
1-29 proposition: "The constitutional amendment allowing the
1-30 legislature to define rates of interest for commercial loans."

1-31 * * * * *

FAVORABLE
SENATE COMMITTEE REPORT ON

SB SCR SJB SR HB HCR HJR 21

By Averitt
(Author/Senate Sponsor)

March 31, 2005
(date)

We, your Committee on BUSINESS AND COMMERCE, to which was referred the attached measure,
have on March 29, 2005, had the same under consideration and I am instructed to report it
(date of hearing)
back with the recommendation (s) that it:

☒ do pass and be printed

☐ do pass and be ordered not printed

☐ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☐ yes ☒ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Troy Fraser, Chairman	<input checked="" type="checkbox"/>			
Senator Kip Averitt, Vice-Chairman	<input checked="" type="checkbox"/>			
Senator Ken Armbrister	<input checked="" type="checkbox"/>			
Senator Kim Brimer	<input checked="" type="checkbox"/>			
Senator John Carona	<input checked="" type="checkbox"/>			
Senator Kevin Eltife	<input checked="" type="checkbox"/>			
Senator Craig Estes	<input checked="" type="checkbox"/>			
Senator Eddie Lucio	<input checked="" type="checkbox"/>			
Senator Leticia Van de Putte	<input checked="" type="checkbox"/>			
TOTAL VOTES	9			

COMMITTEE ACTION

S260 Considered in public hearing
S270 Testimony taken

Yatim Baker
COMMITTEE CLERK

Troy Fraser
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill
Retain one copy of this form for Committee files

WITNESS LIST

SJR 21

SENATE COMMITTEE REPORT

Business & Commerce

March 29, 2005 - 9:00AM

Registering, but not testifying:

For: Heasley, John (Texas Bankers Association), Austin, TX
 Nicewander, Dan (Gardere Wynne Sewell), Dallas, TX
 Perkins, Arthur Val (Texas Business Law Foundation), Houston, TX
 Sandberg, Eric (Texas Savings and Community Bankers Association), Austin, TX
 Scurlock, Steve (Independent Bankers Association of Texas), Austin, TX
 Vane, Mark (Gardere Wynne Sewell), Austin, TX

On: Pettijohn, Leslie Commissioner (Office of Consumer Credit), Austin, TX

BILL ANALYSIS

Senate Research Center
79R4315 DWS-D

S.J.R. 21
By: Averitt
Business & Commerce
3/24/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, Texas law limits the interest rate on all loans, including commercial loans. This places banks in Texas at a competitive disadvantage in the area of commercial lending. Most states do not regulate interest rates for commercial loans among sophisticated parties. Because federal law allows banks to import interest rates from the state in which they are headquartered, banks with headquarters outside the state of Texas are not subject to our interest rate ceilings. As a result, there are few large banks headquartered in Texas.

As proposed, S.J.R. 21 allows the legislature to create exemptions to the maximum rates of interest provision in the Texas Constitution.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11, Article XVI, Texas Constitution, as follows:

Sec. 11(a) Creates this subsection from existing text relating to the legislature's authority to fix rates of interest.

(b) Authorizes the legislature, notwithstanding Subsection (a), with respect to commercial loans, to create exemptions from the maximum rates of interest. Defines "commercial loan."

SECTION 2. Requires the proposed constitutional amendment to be submitted to the voters at an election to be held on November 8, 2005. Requires the ballot to be printed to permit voting for or against the specific proposition.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

March 24, 2005

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SJR21 by Averitt (Proposing a constitutional amendment authorizing the legislature to define rates of interest for commercial loans.), **As Introduced**

No fiscal implication to the State is anticipated, other than the cost of publication.

The cost to the state for publication of the resolution is \$66,497.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 450 Savings and Loan Department, 451 Department of Banking

LBB Staff: JOB, SR, JRO, MW, RB

Engrossed April 14, 2005
Mardi Oleyard
Engrossing Clerk

I certify this to be a true and correct
copy of the indicated document as
referred or transmitted to committee.

Chief Clerk of the House

By: Averitt
(Flynn)

S.J.R. No. 21

SENATE JOINT RESOLUTION

proposing a constitutional amendment authorizing the legislature
to define rates of interest for commercial loans.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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centum (10%) per annum shall be deemed usurious; provided, further,
that in contracts where no rate of interest is agreed upon, the rate
shall not exceed six per centum (6%) per annum.

(b) Notwithstanding Subsection (a) of this section, the
Legislature, with respect to commercial loans, may create
exemptions from the maximum rates of interest. For purposes of this
subsection, "commercial loan" means a loan made primarily for
business, commercial, investment, agricultural, or similar
purposes and not primarily for personal, family, or household
purposes.

SECTION 2. This proposed constitutional amendment shall be
submitted to the voters at an election to be held November 8, 2005.
The ballot shall be printed to permit voting for or against the
proposition: "The constitutional amendment allowing the

S.J.R. No. 21

1 legislature to define rates of interest for commercial loans."

LEGISLATIVE BUDGET BOARD
Austin, Texas

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Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 450 Savings and Loan Department, 451 Department of Banking

LBB Staff: JOB, SR, JRO, MW, RB

05 APR 26 PM 7:36

HOUSE COMMITTEE REPORT

HOUSE OF REPRESENTATIVES

1st Printing

By: Averitt
(Flynn)

S.J.R. No. 21

SENATE JOINT RESOLUTION

proposing a constitutional amendment authorizing the legislature to define rates of interest for commercial loans.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 11, Article XVI, Texas Constitution, is amended to read as follows:

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(b) Notwithstanding Subsection (a) of this section, the Legislature, with respect to commercial loans, may create exemptions from the maximum rates of interest. For purposes of this subsection, "commercial loan" means a loan made primarily for business, commercial, investment, agricultural, or similar purposes and not primarily for personal, family, or household purposes.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 8, 2005. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment allowing the

COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

4/25/05
(date)

Sir:

We, your COMMITTEE ON FINANCIAL INSTITUTIONS

to whom was referred SJR 21 have had the same under consideration and beg to report back with the recommendation that it

- ☒ do pass, without amendment.
- ☐ do pass, with amendment(s).
- ☐ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- ☒ yes ☐ no A fiscal note was requested.
- ☐ yes ☒ no A criminal justice policy impact statement was requested.
- ☐ yes ☒ no An equalized educational funding impact statement was requested.
- ☐ yes ☒ no An actuarial analysis was requested.
- ☐ yes ☒ no A water development policy impact statement was requested.
- ☐ yes ☒ no A tax equity note was requested.
- ☐ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor Flynn

Joint Sponsors: / / /

Co-Sponsors:

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Solomons, Chair	/			
McCall, Vice-chair	/			
Chavez	/			
Flynn	/			
Guillen				/
Orr	✓			
Riddle	✓			

Total
6 aye
0 nay
0 present, not voting
1 absent

B. D. Thomas
CHAIR

BILL ANALYSIS

S.J.R. 21
By: Averitt
Financial Institutions
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current state law provides interest rate ceilings for all loans, including commercial loans. Independent and community banks in Texas may be at a competitive disadvantage in the area of commercial lending because of constitutional limitations on interest rates compared with lenders who are headquartered outside of Texas, and therefore not subject to Texas usury restrictions.

S.J.R. 21 proposes a constitutional amendment to allow the Texas Legislature to create exemptions from the maximum rate of interest for commercial loans, defined to be those made primarily for business, commercial, investment, agricultural or similar purposes and not primarily for personal, family, or household purposes.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.J.R. 21 amends Section 11, Article XVI, Texas Constitution, as follows:

The bill creates Subsection (a) from existing text that defines the maximum rates of interest.

The bill authorizes the Legislature to create exemptions from the maximum rates of interest, notwithstanding Subsection (a). It also defines "commercial loan" as a loan made primarily for business, commercial, investment, agricultural, or similar purposes, not for personal, family, or household.

FOR ELECTION

This proposed constitutional amendment shall be submitted to the voters at an election on November 8, 2005.

SUMMARY OF COMMITTEE ACTION

SJR 21

April 25, 2005 2:00PM or upon final adjourn./recess

Considered in public hearing

Testimony taken in committee (See attached witness list.)

Reported favorably without amendment(s)

2

WITNESS LIST

SJR 21
HOUSE COMMITTEE REPORT
Financial Institutions Committee

April 25, 2005 - 2:00PM or upon final adjourn./recess

Registering, but not testifying:

For: Perkins, Val (Texas Business Law Foundation)
Sandberg, Eric (Texas Savings and Community Bankers
Association)
Scurlock, Steve (Independent Bankers Association of
Texas)
Vane, Mark (Gardere Wynne Sewell)

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 23, 2005

TO: Honorable Burt R. Solomons, Chair, House Committee on Financial Institutions

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SJR21 by Averitt (Proposing a constitutional amendment authorizing the legislature to define rates of interest for commercial loans.), **As Engrossed**

No fiscal implication to the State is anticipated, other than the cost of publication.

The cost to the state for publication of the resolution is \$66,497.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 450 Savings and Loan Department, 451 Department of Banking

LBB Staff: JOB, SR, JRO, MW, RB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

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TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

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LBB Staff: JOB, SR, JRO, MW, RB

5

Enrolled May 9, 2005
Mardi Alexander
Enrolling Clerk

S.J.R. No. 21

SENATE JOINT RESOLUTION

proposing a constitutional amendment authorizing the legislature to define rates of interest for commercial loans.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 8, 2005. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment allowing the

S.J.R. No. 21

1 legislature to define rates of interest for commercial loans."

President of the Senate

Speaker of the House

I hereby certify that S.J.R. No. 21 was adopted by the Senate on April 14, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.J.R. No. 21 was adopted by the House on May 9, 2005, by the following vote: Yeas 139, Nays 0, three present not voting.

Chief Clerk of the House

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 23, 2005

TO: Honorable Burt R. Solomons, Chair, House Committee on Financial Institutions

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LEGISLATIVE BUDGET BOARD

Austin, Texas

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March 24, 2005

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See

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Speaker of the House

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Secretary of the Senate

I hereby certify that S.J.R. No. 21 was adopted by the House on May 9, 2005, by the following vote: Yeas 139, Nays 0.

3 three present not voting

Chief Clerk of the House

proposing a constitutional amendment authorizing the legislature to define rates of interest for commercial loans.

FEB 28 2005

Filed with the Secretary of the Senate

MAR 10 2005

Read and referred to Committee on BUSINESS AND

MAR 31 2005

COMMERCE

Reported favorably

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

APR 14 2005

Senate and Constitutional Rules to permit consideration suspended by:

unanimous consent

years, days

APR 14 2005

Read second time, , and ordered engrossed by:

unanimous consent
a viva voce vote

years, days

APR 14 2005

Senate and Constitutional 3 Day Rule suspended by a vote of 30 yeas, 1 nays.

APR 14 2005

Read third time, , and passed by: 31 yeas, 0 nays

Latoy Spaw
SECRETARY OF THE SENATE

OTHER ACTION:

April 14, 2005 Engrossed

Sent to House

Engrossing Clerk

Mardi Alexander

APR 18 2005

Received from the Senate

APR 19 2005

Read first time and referred to Committee on Financial Institutions

APR 25 2005

Reported favorably (~~amended~~) (~~as substituted~~)

APR 27 2005

Sent to Committee on Calendars

MAY 09 2005

Read second time (~~comm. subst.~~) (~~amended~~) and adopted (~~passed to third reading~~) by a record vote of 39 yeas, 0 nays, 3 present, not voting

Read third time (amended) and finally adopted (failed of adoption) by a record vote of yeas, nays, present, not voting

MAY 09 2005

Returned to Senate.

Robert Honey
CHIEF CLERK OF THE HOUSE

MAY 09 2005

Returned from House without amendment.

Returned from House with amendments.

Concurred in House amendments by a viva voce vote yeas, nays.

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

_____ { a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

_____ { a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

_____ { a viva voce vote
_____ yeas, _____ nays

05 APR 26 PM 7: 36
HOUSE OF REPRESENTATIVES